

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3125 of 1981

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE MR. K.SREEDHARAN and  
MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?-No.
2. To be referred to the Reporter or not?-No.
3. Whether Their Lordships wish to see the fair copy of the judgement?-No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?-No.
5. Whether it is to be circulated to the Civil Judge?-No.

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ICHHAPORE INDUSTRIAL CO-OP

Versus

SURAT URBAN DEVELOPMENT

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Appearance:

Mr.V.B. Patel, Senior Advocate, with  
MR DEEPAK V PATEL for Petitioners  
MR JR NANAVATI for Respondent Nos. 1 and 2  
Mr.K.M. Mehta, A.G.P. for Respondent No. 3  
MR BP TANNA for Respondent No. 4

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CORAM : THE CHIEF JUSTICE MR. K.SREEDHARAN and  
MR.JUSTICE M.S.SHAH

Date of decision: 21/11/97

ORAL JUDGEMENT : (Per K. Sreedharan, C.J.)

In the course we are adopting, we do not consider it necessary to narrate all the contentions raised by the petitioners in this application. Suffice it to say that

petitioners are aggrieved by the categorization of their land as 'agricultural land' in the Final Development Plan accepted by the Government as per order dated 31.1.1986. According to the provisions contained in Section 20 of the Gujarat Town Planning and Urban Development Act, pursuant to the Final Development Plan, if action has not been taken for acquiring the properties within 10 years of the publication of the plan, the designation of the land in the plan will lapse. Since 10 year period after the notification dated 31.1.1986 had lapsed, revision of development plan has to be done under Section 21 of the Act. Surat Urban Development Authority has, therefore, taken action for revision of the Development Plan. They submitted Draft Development Plan to the State Government for sanction on 26th August, 1997 as provided by Section 16 of the Act. Government have to consider the new Draft Development Plan under Section 17 of the Act.

In the Draft Development Plan submitted to the Government for sanction by SUDA, petitioners' lands have again been shown in the agricultural zone. According to the petitioners, there are sufficient documentary evidence, including the opinion given by the Competent Authorities, like Chief Town Planner, to classify petitioners' lands as "industrial area" or as "area suitable for residence". Petitioners' complaint is that SUDA has not considered those materials while submitting the Draft Development Plan to the Government under Section 16. Be that as it may, since the entire matter is now before the Government and the Government have to consider all the aspects before taking a decision under Section 17 of the Act while according sanction to the Draft Development Plan, we direct the Government to consider all relevant aspects in accordance with law and to take a decision objectively. If the Government takes an objective decision on the issue, we feel that petitioners' grievances will stand redressed. Accordingly, we direct the Government to examine the entire issue regarding the nature of the land of the petitioners, as to whether it is to be included in the industrial zone, residential zone or agricultural zone, while according sanction to the draft plan submitted by SUDA in exercise of the powers under Section 17 of the Act.

No further order is called for. Special Civil Application is disposed of in the above terms. Rule is discharged. Ad interim relief stands vacated.

Petitioners are directed to make available a copy of this judgment to the Government so that the Government

can take follow up action, as indicated above. While submitting a copy of this judgment, petitioners, if so advised, can file detailed representation to the Government, which, we are sure, Government will take into consideration.

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(apj)